

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MEL M. MARIN,

Plaintiff,

v.

ROBERTA BIROS, THE MERCER
COUNTY CONSERVATIVES, DAVID
BIROS, BUTLER TOWNSHIP
POLICE, OFFICER MURPHY,
OFFICER NEDLY, OFFICER
VENTZEL, SHARPSVILLE BORO
POLICE, MERCER COUNTY
SHERIFF, Jointly and Severely,

Defendants.

2:11cv884

Electronic Filing

MEMORANDUM ORDER

AND NOW, this 23rd day of March, 2016, upon due consideration of plaintiff's motion to vacate the Memorandum Opinion and Order of June 10, 2014, and his submissions in conjunction therewith, IT IS ORDERED that [10] the motion be, and the same hereby is, denied.

Plaintiff filed this action while he was "a candidate for Congress in the Western District of Pennsylvania." Complaint ([Doc. No. 1-2](#)) at ¶1. Plaintiff had registered as a candidate in the primary election for the 3rd Congressional District in order to challenge Representative Kathy Dahlkemper for the democratic nomination. *Id.*; *see also* Memorandum Order of August 30, 2012, in *Marin v. The Erie Times, et al.*, 1:11cv102 ([ECF No. 18](#) in 1:11cv102) at 4, *aff'd*, 525 F. App'x 74 (3d Cir. 2013). Plaintiff contends generally that Biros and her husband, as private citizens, published an article on the internet that was critical of plaintiff's qualifications for public office and suggested in a false light that he had committed a serious crime. *See*

<http://mercerconservatives.blogspot.com/2010/03/who-is-mel-marin-democrat-candidate-for.html>. These defendants then failed to correct the misinformation after having an opportunity

to do so. Complaint ([Doc. No. 1-2](#)) at ¶¶ 8-11. The remaining defendants either assisted these defendants or failed to take appropriate steps to correct the misinformation that was disseminated about plaintiff during his candidacy.¹

Among other reasons, the court dismissed plaintiff's action for failure to prosecute in a timely manner. Even assuming the United States Marshal Service was to make service of plaintiff's complaint, plaintiff had failed to keep his address updated and the court was unable to direct plaintiff to submit the United States Marshal Service 285 forms in order to proceed with the litigation. The reasons for this state of affairs were highlighted in footnote one within the Memorandum Opinion and Order of June 10, 2014 ([Doc. No. 6](#)).² The submissions made in conjunction with the current motion are more of the conduct by plaintiff noted in detail in that footnote. Such antics are not a basis to toll the statute of limitations for years where the defendants have never received even an inkling of notice that a lawsuit was filed.

Moreover, even assuming that the court's rationale for its June 10, 2014, Order of Dismissal was erroneous, the order was not void. Against this backdrop, the bases plaintiff

¹ Plaintiff's name was removed from the "2012 primary ballot for the Democratic Party's nomination for the Third District after a Commonwealth Court judge ruled Marin didn't have the minimum 1,000 valid signatures required for his petitions." See http://www.sharonherald.com/news/local_news/judge-orders-marin-removed-from-ballot/article_dd412468-3cdb-5462-9d2b-4e567a28d332.html. The same events transpired when plaintiff attempted to run for the same congressional seat in 2014. *Id.*

² For more of the same one need only look at the address submitted in conjunction with plaintiff's "Notice of May 29, 2015," followed by the change of address that preceded the instant motion by 10 days. See [Doc. No. 8-3](#), [Doc. No. 9](#), [Doc. No. 10](#). For another account of similar escapades by plaintiff see, e.g., <http://triblive.com/news/armstrong/8171747-74/marin-county-lawsuit>.

advances for relief in the current motion fail to provide grounds for relief under Rule 60(b).

Consequently, plaintiff's motion to vacate properly has been denied.

s/David Stewart Cercone
David Stewart Cercone
United States District Judge

cc: Mel M. Marin
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(Via First Class Mail)